

# ***The Informer Talked. Endlessly.; On Trail of Fake Rolexes, Lawyers Feel Harassed***

By **MICHAEL BRICKAUG.** 5, 2003

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He is a 49-year-old lawyer for a firm with offices in Manhattan, London and Switzerland. She is a 45-year-old street vendor with a list of aliases and arrests.

Jewelry brought them together.

She works on the streets of Hell's Kitchen in New York and the Haight in San Francisco, buying and selling bracelets and watches. He works in the Sixth Avenue offices of Gibney, Anthony & Flaherty, protecting the trademarks and copyrights of a top client, Rolex.

The underworld and high society intersect wherever a person from one world needs something from the other, be it drugs, labor, weapons or information. Brian W. Brokate, Esq., was looking for information from Paula Datesh, also known as Paula Grundman. He got that, but soon became trapped in a situation that he could not end.

The story of how Rolex's law firm got more than it bargained for when it contacted a street informer to help track phony brand-name watches involves Mr. Brokate, Ms. Datesh, a lawyer and a private investigator whom Ms. Datesh called "the two Heathers," the phony watches and a 75-year-old counterfeiter named Hal. It emerges from court documents, e-mail transcripts and interviews with law enforcement, court and corrections officers and officials, as well as the people involved.

What the lawyers say is that Ms. Datesh, acting as an informer about street vendors, wound up harassing the law firm by sending a wave of messages they did not want. As for Ms. Datesh, she is now in jail.

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While the piracy of digitized movies and music and the counterfeiting of pharmaceutical products have been throwing those industries into a panic in recent years, the cloak-and-dagger interaction between watchmakers and those who counterfeit their products has been playing out for years with different plot twists. One recent trick of counterfeiters, according to the International Anti-Counterfeiting Coalition, a trade group, is simply applying phony trademarks after watches have been smuggled into the United States.

Government confiscations of fake-brand watches are clearly on the decline. The federal Department of Homeland Security seized \$988,221 in fake watches and parts in the first half of fiscal 2003, 3 percent of the total value of goods seized, compared to \$2.5 million in the first six months of 2002, which was 9 percent of the total value. Once fake watches or their parts have been successfully smuggled into the United States, the only remaining trademark enforcement mechanisms are local police departments and private forces hired by the victims themselves. For this purpose, Rolex has Gibney, Anthony & Flaherty -- and Mr. Brokate.

Law firms that pursue fake merchandise need street contacts to find who is selling it, and where the goods came from. Reputable law firms avoid paying them, so informers usually comes with a built-in motive other than money, often a grudge against those they inform on. One of the first counterfeiters to have a run-in with Ms. Datesh in her new capacity as a Rolex informer was Harold C. Berkus.

For Mr. Berkus, known mostly as Hal, the motive for working with private investigators was the idea that helping Rolex's lawyers might take some of the heat off of him. In 1994, at age 66, he had been caught by Rolex's agents, who confiscated his fake watches.

He agreed to cooperate with Heather Holdridge, a private investigator working for Rolex in Los Angeles. He promised to supply information on some of his suppliers of phony Rolex watches.

Little did he know, one of his customers was an informer, Ms. Datesh, who had moved to California after a few brief stays at Rikers Island in New York.

In August 1998, Ms. Datesh, who was living in Berkeley, approached a police officer on the street and said that she knew the counterfeit jewelry markets in Los Angeles and New York. The police set up a telephone meeting with Heather J. McDonald, a lawyer at Gibney, Anthony & Flaherty and the second of the pair of women Ms. Datesh would later refer to as "the two Heathers."

Ms. Datesh quickly proved herself a prolific informer, turning in Mr. Berkus and even Ms. Holdridge, the private investigator, whom Ms. Datesh apparently thought was another counterfeiter, to the Rolex lawyers through an 800 number that they provide to informers. Mr. Berkus was sent to Chuckawalla Valley State Prison in Blythe, Calif., in 2000 for the sale of counterfeit goods. He was paroled in March 2003 and now runs a business called W & G, for Watches & Gold, near the Little Tokyo section of Los Angeles.

Ms. Datesh met with the Rolex lawyers in New York in the fall of 1998. She told them about two spots near Madison Square Garden where, she said, counterfeit watches were for sale by middlemen, complete with fake documentation indicating a legitimate purchase.

But here the relationship between the law firm and Ms. Datesh soured. In Ms. Datesh's version of events, she returned to the spot where the watches were sold and was beaten and robbed. According to people who have been briefed on the current criminal complaint against Ms. Datesh, the information that she gave to Rolex was worthless.

By all accounts, Ms. Datesh was not about to go away quietly. She placed hundreds of calls to the law firm, enough to elicit a complaint of aggravated harassment. By her own account, Ms. Datesh even made an unannounced visit to the firm to confront the Rolex lawyers.

When she was first interviewed for this article, she came across as perfectly reliable, reciting dates, addresses and telephone numbers and spelling out names. But she then followed up with dozens of calls, whether or not the calls were returned.

After an unrelated arrest in early 2000 in New York, Ms. Datesh was held on bail until December 2000, when she pleaded guilty to the aggravated harassment charge. She was sentenced to a year in prison and released on time served, with an order to leave Ms. McDonald alone.

After her release, she corresponded with Mr. Brokate by e-mail, even as the police unsuccessfully sought to arrest her on charges of violating that court order. Citing his firm's involvement in the criminal case against Ms. Datesh, and the district attorney's use of a sealed indictment, Mr. Brokate declined to comment on Ms. Datesh. Mr. Brokate said that when relationships with informers backfire, he still said he feels an obligation to his clients to continue reviewing the tips they provide. "Always the goal is never tell the informant what you're doing," Mr. Brokate said.

In fitting with that approach, Mr. Brokate's side of the continuing e-mail conversation with Ms. Datesh was terse. In response to a

rambling note that she wrote in March 2002 about her responsibility for Mr. Berkus' prison sentence, Mr. Brokate wrote, "If you stayed away from the counterfeiting world, you would not have the problems of Hal Berkus." Sometimes he told her to let him alone, but other times he pressed her for more information.

"My friend -- your natural enemy -- went into production today," she wrote in November 2002.

"Is this Paul you are talking about?" he replied.

Her side was expansive, including tips on counterfeiting, accusations, pleas for help and personal advice.

"There is some unnamed Chinese guy in the Capitol flea market in San Jose who sells fake Rolex," she wrote last December. "I don't know his name. He displays non-counterfeit watches. I am really drunk."

Though Mr. Brokate's responses were short, he tried to keep the conversation alive. In response to an angrily obscene note, he wrote, "and?" To another note, he wrote "any ideas?"

In February, the police in San Francisco arrested Ms. Datesh and charged her with grand theft, accusing her of signing someone else's name to collect a package of about 350 bracelets. She made a plea bargain for two months in jail and three years' probation, but the district attorney's office in Manhattan noticed that she had been arrested.

Since she was in custody and an active harassment claim existed against her in New York, Manhattan prosecutors began extradition proceedings, using a sealed indictment accusing Ms. Datesh of violating an order to let the Rolex lawyers alone, according to people who have been briefed on the case. Her lawyers in California filed to fight the extradition request in June.

But incarceration has not stopped Ms. Datesh from placing telephone calls. These begin with a long message informing the recipient that the call originates at the San Francisco County Jail. On one such call to a reporter, Ms. Datesh said that she still might be able to straighten things out with the Rolex lawyers.

"If I actually met these people face to face in a normal environment, we could talk about it," Ms. Datesh said. She added that the lawyers still have a few things to learn from her: "They don't know how to deal with informants."

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